

ROLL CALL NATURAL RESOURCES COMMITTEE

[illegible]

**MONTANA STATE SENATE
2007 LEGISLATURE**

**VISITOR REGISTER
NATURAL RESOURCES**

DATE 3-14-07

BILLS BEING HEARD TODAY HB 166, 526, 557

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
Janice Shaler	728-2559		HB 557		<input checked="" type="checkbox"/>
Carol Kenney	549-4876		HB 557		<input checked="" type="checkbox"/>
Gail J. Wood	549-4965		HB 557		<input checked="" type="checkbox"/>
Betty J. Dyke	549-0415		HB 557		<input checked="" type="checkbox"/>
Suey Hilliard	549-4345		HB 557		<input checked="" type="checkbox"/>
John F. Zimmerman	449-9918		HB 526	<input checked="" type="checkbox"/>	
GARY FORRESTER	208-8290		HB 526	<input checked="" type="checkbox"/>	
John Youngberg	570-4103	MSBE	HB 557	<input checked="" type="checkbox"/>	
" "	" "	"	HB 166	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Pat Arnone	755-2768		HB 557		<input checked="" type="checkbox"/>
Ronna Alexander	449-4133		HB 166	<input checked="" type="checkbox"/>	
Katie Kummer	81-4934	MPL	HB 166	<input checked="" type="checkbox"/>	
Ana Pederson	579-0743	MEIC	HB 166	<input checked="" type="checkbox"/>	
Carly Hegreberg	24162	Contractors Assn.	HB 557	<input checked="" type="checkbox"/>	
Lorrie Andersen	453-2692	United Mfg. Assoc. of BTF	HB 557	<input checked="" type="checkbox"/>	
William Gibson	449-4162	MEIC	HB 557	<input checked="" type="checkbox"/>	
Edna H. Hersh	449-4162	MEIC	HB 557	<input checked="" type="checkbox"/>	
Bob Sporklage	756-1140		557	<input checked="" type="checkbox"/>	
Mike Newton	939-2188	Fisher Sand & Gravel	HB 557	<input checked="" type="checkbox"/>	
Brian Staley	449-1758	MT DOR	HB 166		
Harold Lawton	453-7682	United Mfg. Assoc. of BTF	HB 557	<input checked="" type="checkbox"/>	

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

VISITOR REGISTER

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NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
Ann Fagre	406 888-5760		HB 557		X
Monica Jungsten	406-888-5246	CITIZEN	HB 557		X
JERRY MIX	406-755-9321	CITIZEN	HB 557		X
John Sandler	406/756-2403	Citizen	HB 557		X
Vanessa M. Cerardo	755-1958	Citizen	HB 557		X
DAN FAIRE	406-888-5760	CITIZEN	HB 557	Indef	
HAUD BLA HES	4-4360	MACO	HB 557		X
DOUG HARDY	223-3091	MECA	HB 526	X	
William Allegro	257-6295	CITIZEN	HB 557		X
Susan Allegro	257-4608	Citizens	HB 557		X
Myra Shults	549-7224	JPIA/MACO	HB 557		
WILL LARK	728-3596	Citizen	HB 557		X
Don Judge	458-1708	MT Sierra Club	HR 166	X	
Janet Ellis	443-3949	MT Audubon	HB 557		X
JACK GILLESPIE	544-2801	CITIZEN	HB 557		X
Grant Lark	728-3596	CITIZEN	HB 557		X
Lynn Pearce	892-0154	Columbia Falls	HB 557		X
TIM DAVIS	449 6086	MSGC	HB 557		✓
Jerry Bowser	459-3701	Helena S & G	HB 557	X	
RICK MARE	696 0931	NPRC	HB 166	X	
John Semple	443 2487	MT Grain Growers	HB 166	X	

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

March 13, 2007

Dear Senators:


I am writing in regards to HB 557. I am asking you to vote AGAINST this bill. I believe that it takes local control away from counties. All counties of Montana are currently reviewing and revising their growth policies, as directed by the state of Montana. Hundreds of thousands of dollars and countless man-hours have been spent in this process. HB 557 would throw all this hard work, **done at a local level**, out in favor of zoning at a state level.

HB 557 states that a geographic zone must be zoned as residential AND taxed as residential by the county commissioners in order to reasonably condition or prohibit mining of sand and gravel or the mixing of concrete or asphalt. However, if asphalt and concrete plants are allowed then this is an INDUSTRIAL* use of the land, not an agricultural use. The taxation should be at an industrial rate, not agricultural. This presents a "Catch-22" since many areas are currently zoned as being non-industrial. HB 557 would totally disregard existing zoning. Using tax classes, in the way that HB 557 does, is not only ambiguous, but unlawful.

On a personal note, I would like to respond to an argument used in favor of this bill. Proponents have stated that residential landowners have "crept" into the agricultural zones. My family resides on land homesteaded by my great-grandparents in 1892. My two brothers, my father, my aunt and my cousin also live on this homesteaded plot. We aren't newcomers to this area. Some of our neighbors are new to this community. Somebody, perhaps a farmer, sold them their land. They lawfully purchased their acreage and are rightful landowners with due rights and privileges. The county commissioners approved the subdivisions and land splits. **Nobody "crept" out here.**

Please vote NO on HB 557. Leave the zoning to the local governments.

Sincerely,



Charlene Iannucci

3080 Farm to Market Rd.

Kalispell, MT 59901

406-755-0517

BILL VAUGHN

5705 LAVOIE • MISSOULA MT 59808
406 207 1810 • DARKACRES@MONTANA.COM

10 March 2007

Sen. David Wanzenried
Montana Senate
P.O. Box 200500
Helena, MT 59620-0500

Dear Senator Wanzenried,

The language of HB557 is brief, but if it becomes law the damage to Montana would last decades. HB557 would allow private companies to mine gravel, batch asphalt and manufacture cement in residential neighborhoods without the approval of the county commissioners.

HB557 was written by the Montana Contractor's Association in retaliation for a 3-0 ruling by the Missoula County Board of Commissioners Dec. 6 against rezoning the Trout Meadows Ranch on the Clark Fork River. The zoning change would have allowed Riverside Contracting to gouge 58 acres of gravel pits, mix asphalt and fabricate cement for a decade in a riparian area next to ground the Salish consider sacred, and which the Audubon Society maintains is critical bird habitat.

More than 2500 people signed petitions against the scheme. I strongly urge you to vote in committee against HB557, "an act revising the criteria for county zoning impact on sand, gravel and asphalt operations." I oppose this legislation because:

1. **HB557 is anti-democratic.** Legally elected county commissioners would be stripped of their power to define whether a neighborhood is residential, and thus protected from open-cut gravel mining. Because county commissioners would no longer be able to make decisions about citing these operations the voters who elected them would have no say in the future of their own neighborhoods.
2. **HB557 will destroy the value of private property.** A small number of landowners and a few gravel-mining and construction companies will line their pockets, while the value of the property belonging to large numbers of freeholders in the vicinity of a gravel pit or an asphalt plant will erode. This is nothing less than an unfair taking of private property.
3. **HB557 will make residential neighborhoods unsafe.** Massive open-cut gravel pits, asphalt plants and cement facilities will generate dangerous increases in truck traffic on narrow streets and roads. Most residential neighborhoods in Montana were not built to safely accommodate the massive vehicles gravel-mining companies use to haul material.
4. **HB557 will disturb the peace and cause health problems.** The excavation of gravel and the production of asphalt and cement will produce noise, particulates, dust, and obnoxious smells, and have no place in residential neighborhoods.

5. HB557 will cause massive environmental damage. Construction companies prefer the gravel found near streams and rivers. Digging gravel pits and operating asphalt plants in the residential neighborhoods that are common near Montana's waterways will make the residents of these neighborhoods the victims of water and air pollution. Also, the wildlife that Montanans enjoy living among will be driven away.

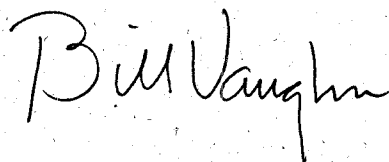
I urge you to reject the arguments of the Montana Contractor's Association. Lobbyists Michael Kakuk and Gail Abercrombie, and MCA head Cary Hegreberg, claim that "adequate" environmental oversight of open-cut gravel mines will be provided by the Montana Department of Environmental Quality. But Jerry Burke, supervisor of open-cut mining for the DEQ, said in 2004, "It's ridiculous. We only have 3.5 people to look at all 2,000 operations, and we just can't get to them all."

Even so, violations of the open-cut mining law on the part of Missoula-based Riverside Contracting at its Shaw Pit and Hensleigh Pit #1 in Garfield County were so egregious that the DEQ was compelled to levy two fines totaling \$1450 against the company in May of 2006.

I contend that in its application to the DEQ on Nov. 1 Riverside Contracting submitted a knowingly false and fraudulent document—in this case a site map. I enclose Riverside's map, and my maps, which are based on the true geography of the area. If you conclude that Riverside lied in its application, I urge you to consider the consequences of allowing other members of the Montana Contractor's Association free rein to do what they want in our neighborhoods without citizen input. You just can't believe these companies. And you can't trust them. They have no concern for citizen rights to a clean environment and are contemptuous of the value of our property.

On behalf of the freeholders in Montana's residential neighborhoods, please reject HB557. Please vote against it in committee, and kill it dead.

Best regards,

A handwritten signature in cursive script that reads "Bill Vaughn". The signature is written in dark ink and is positioned below the "Best regards," text.

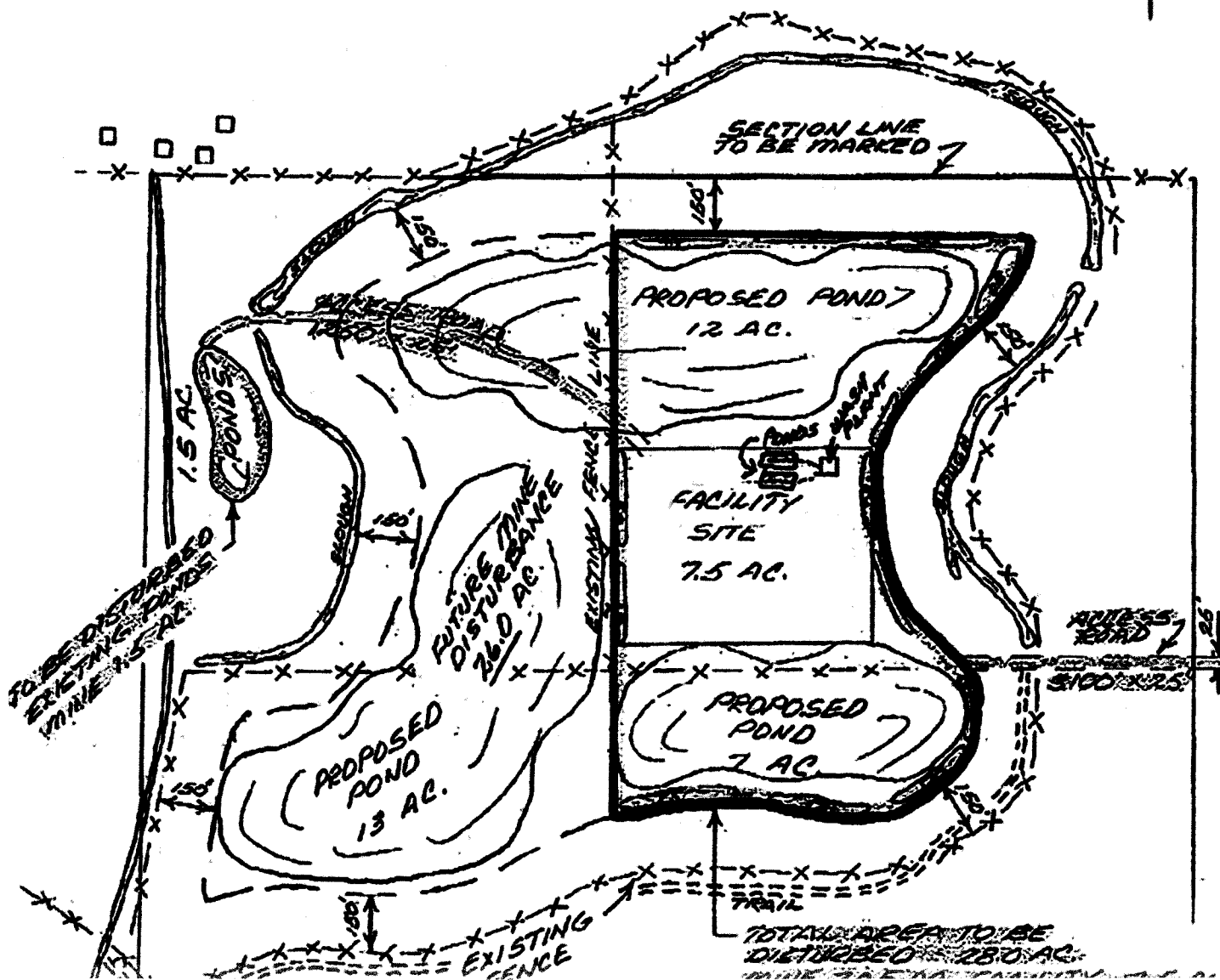
Bill Vaughn

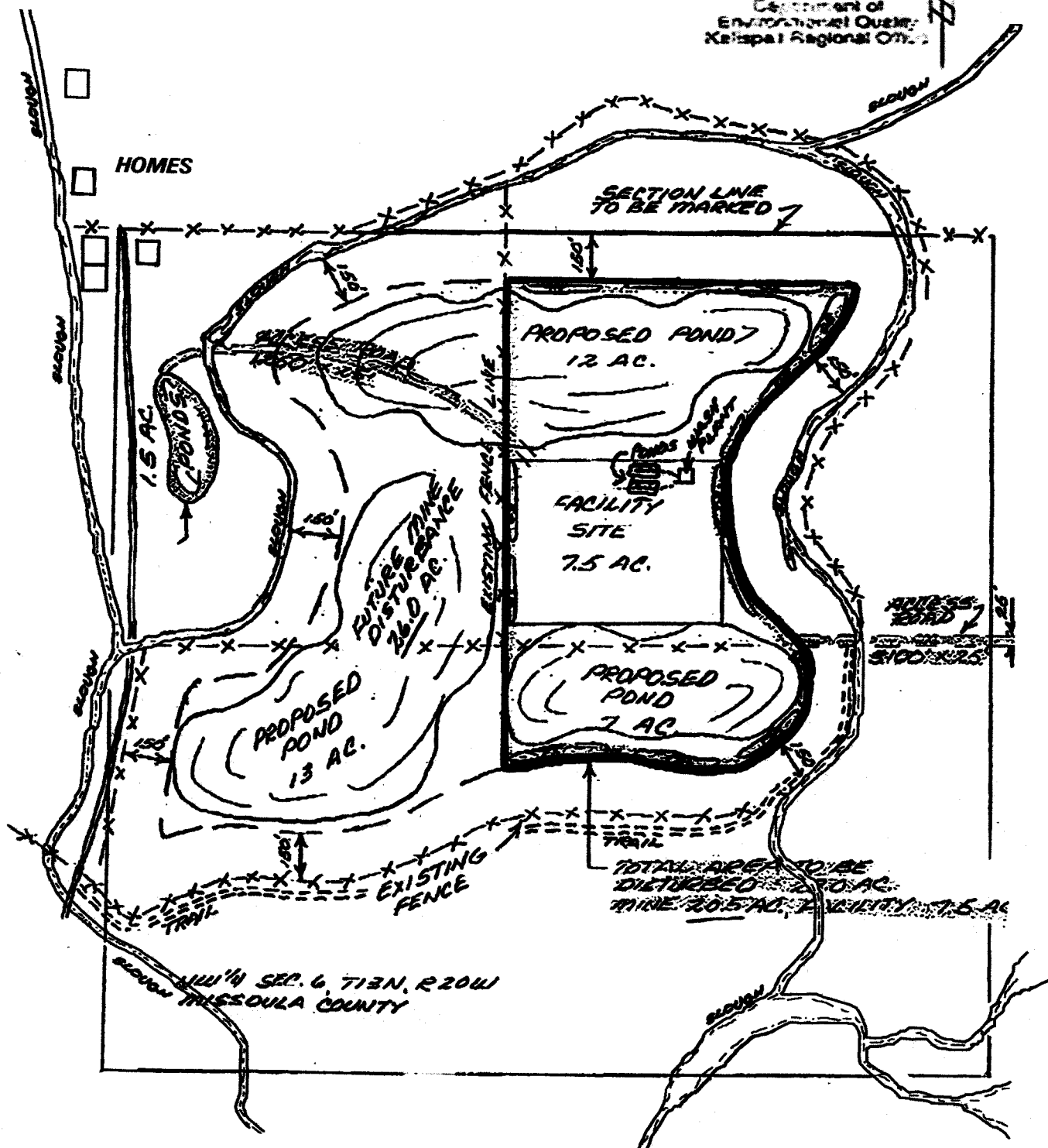
Site map submitted to the DEQ by Riverside Contracting in its Nov. 1 application to mine gravel, batch asphalt and manufacture cement at the Trout Meadows Ranch in Missoula County.

RECEIVED

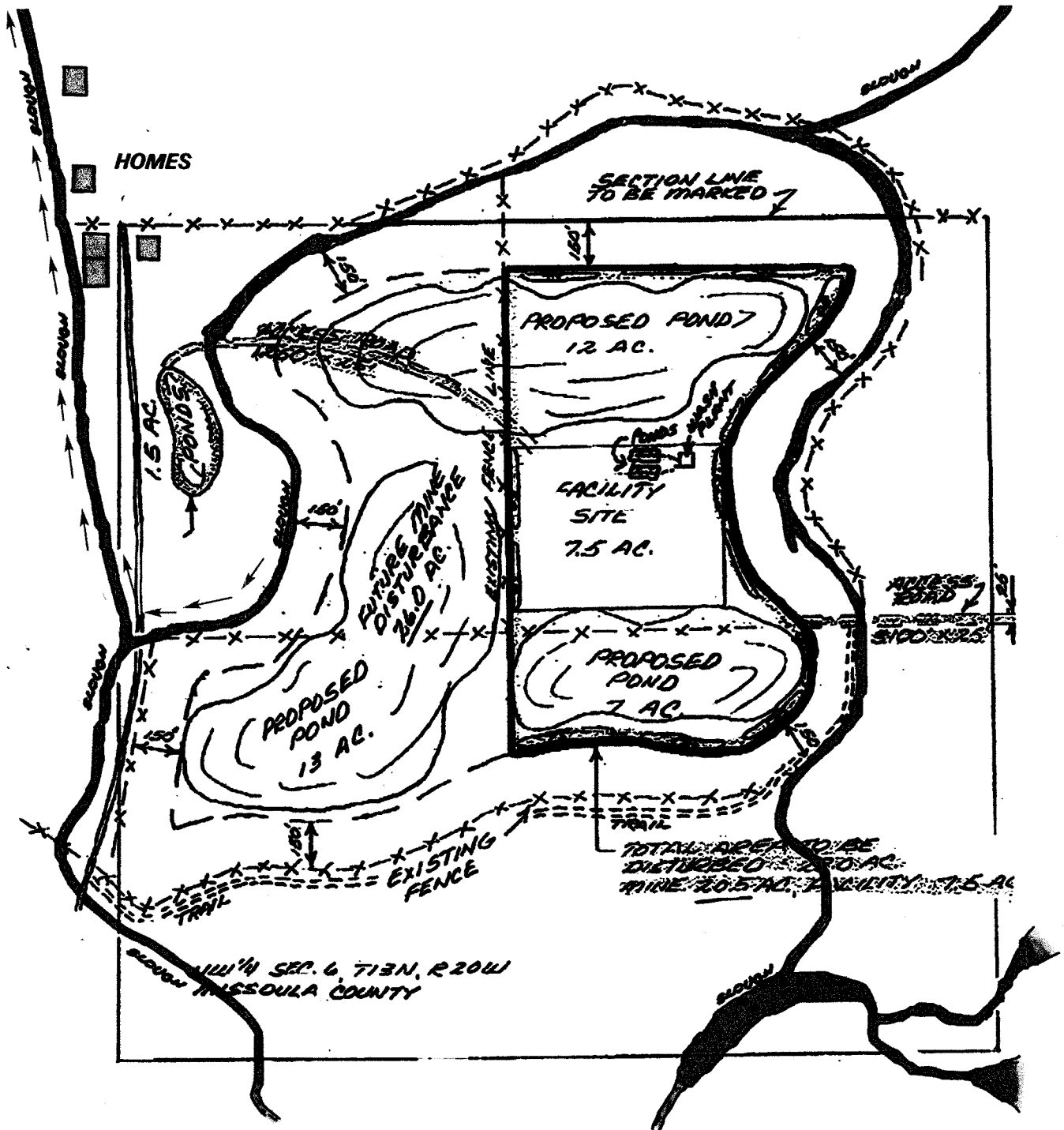
NOV 01 2006

Department of
Environmental Quality
Kalispel Regional Office





Site Map #2 with color added for emphasis.
 Note the direction of the flow of water in the slough,
 which eventually connects to the Clark Fork River.
 Twelve families own water rights to this slough,
 and use it for irrigation and recreation. It's also
 home to scores of bird and animal species.



The Trout Meadows Ranch and its downstream neighbors

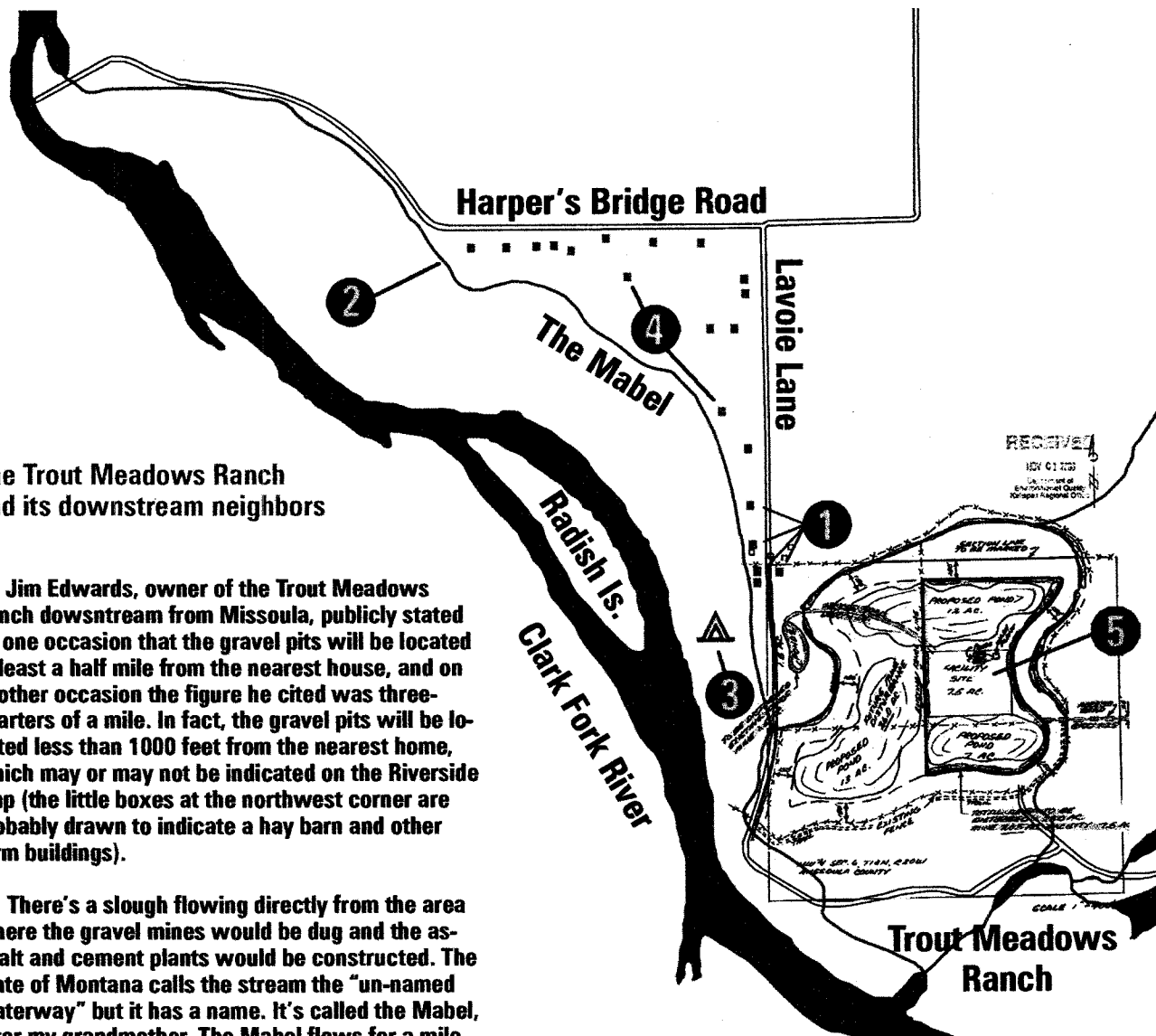
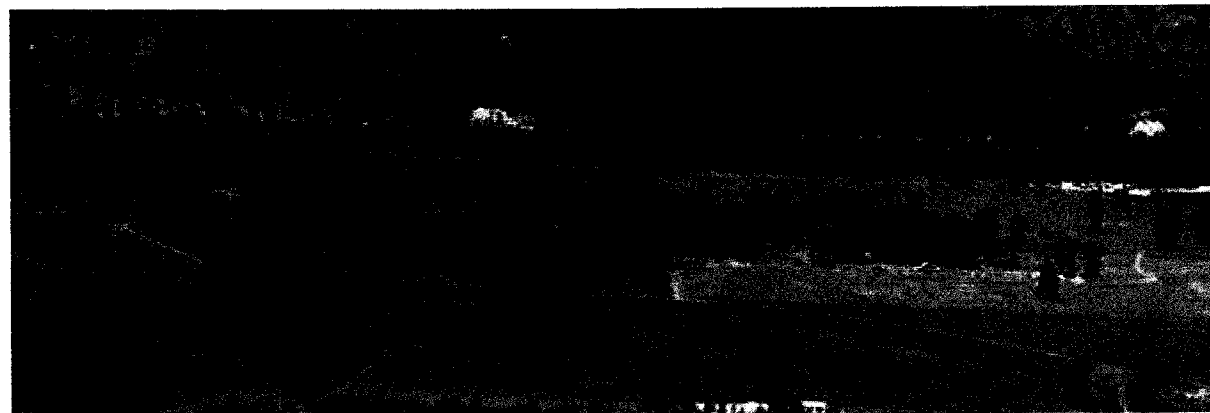
1. Jim Edwards, owner of the Trout Meadows Ranch downstream from Missoula, publicly stated on one occasion that the gravel pits will be located at least a half mile from the nearest house, and on another occasion the figure he cited was three-quarters of a mile. In fact, the gravel pits will be located less than 1000 feet from the nearest home, which may or may not be indicated on the Riverside map (the little boxes at the northwest corner are probably drawn to indicate a hay barn and other farm buildings).

2. There's a slough flowing directly from the area where the gravel mines would be dug and the asphalt and cement plants would be constructed. The state of Montana calls the stream the "un-named waterway" but it has a name. It's called the Mabel, after my grandmother. The Mabel flows for a mile through the properties of twelve families, including Dark Acres, and empties into the Clark Fork River. Its water, which is even purer than that of the river, is home to scores of species of fish, amphibians, reptiles, birds and mammals.

3. The YMCA summer camp. What happens to the kiddies while gravel pits are being dredged, huge trucks are being gunned in and out of the facility, and cement and asphalt are being fabricated?

4. There are twelve families along the Mabel who own water rights to the stream and use it for recreation and irrigation. Who will compensate these families for their loss if the Mabel is polluted by silt, cement or asphalt?

5. Riverside euphemistically calls the center of operations of its industrial plant a "facility" instead of using the words "cement," "crusher," and "asphalt. And it calls holes in the ground "ponds."



Dear Committee Members,

I would like to voice my opposition to 'Revised Criteria for HB 557'. The stated revisions eliminate any possibility of planning by local/county planning boards and the associated public hearings periods. These hearings provide the only mechanism for citizen involvement and involvement by nearby landowners whose property values are negatively impacted by gravel operations. The impact is much greater when these operations involve concrete & asphalt.

Furthermore, these operations cause a disproportionate share of damage to public roads and are in many cases, agriculturally designated zones operating as commercial/heavy industrial. A tax should be put in place for these operations to subsidize the necessary road repair. Industrial tax rates, not agricultural tax rates, should be applied to match the true nature of the business conducted.

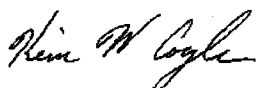
The cumulative impact of traffic produced by gravel operations must be also be taken into consideration. In West Valley, a new high school is scheduled to open this fall. We've already had a death of a teenager, and a second accident, involving one of the gravel pit owner's daughter at the same intersection. The roads here are much too narrow, no sidewalks for students or pedestrian traffic and they are not properly constructed for traffic of this nature, especially when considering the tandem trailers utilized. How would a community respond and appropriate planning taken into account if the proposed changes are instituted?

The cumulative impact of particulates in the air, the scientific evaluation of nitrate compounds which are disturbed by gravel operations and then washed with water hasn't taken place. The DEQ acknowledges this type of study should be conducted but state they don't have the funding to carry out such a study. Is the gravel industry and government ready to fund such a study prior to moving forward? I suspect the answer is no. Yet if a problem is discovered by such a study, who pays the real price? The gravel industry or government folks representing ALL of us? Again, the answer is no, it's the people living in the residentially designated areas in the proximity of these operations that pay for these negative impacts and the self interests of a select few.

The changes to this bill may be an idea that Ralph Heinhert and folks in Libby *may* favorably respond to, but is totally inappropriate for areas experiencing the residential growth rates we are in parts of Flathead County

While I agree that leeway should be given to private property owners and how they may use their land, due consideration must be given to the private property owners in the surrounding area. The proposed changes negate such consideration. The adjacent property owners also have a stake and are in most cases negatively impacted by these operations. Please vote in opposition to these changes.

Sincerely,



Kevin Coyle
120 Marin's Way
Kalispell MT 59901

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▶ ● Dave Wanzenried

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The Motley Fool - Let's Find the Next 60-Bagger

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Mr. Wanzenried:

Could you read or introduce the following at your Committee meeting this week on HB557? Thank you. Mark

March 11, 2007

Montana Senators
 State Capitol
 Helena, Mt. 59601

Dear Senators:

House Bill 557 is a poorly written piece of legislation, geared to enhance the financial bottom line of a select few while impacting many. It will be a detriment to MCA 76-2-209 if allowed to pass. It will significantly diminish, if not totally eliminate, the limited amount of regulatory authority that local government presently has over gravel and sand extraction and location pursuant to existing law.

Currently, local governing bodies have the ability to reasonably condition or prohibit gravel extraction and processing in residential areas. At present, County government can assess the needs of the citizens and weigh it against the costs to its citizens. This legislation would adversely impact local government's authority to protect its citizenry.

If enacted, water and air quality in residential areas will be impacted and adversely affected. Existing infrastructure will be damaged or destroyed. Citizen safety will be jeopardized. These are all issues that need to remain under County control and domain.

Please vote NO to HB557.

Mark J. Schwager
 Susan Schwager
 P. O. Box 7635

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 Bayside M
 Legislature](#)